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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,785

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Marcus Bernard Hubert Bontjer

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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,785	<b>Applicant(s)</b> BONTJER ET AL.	
	<b>Examiner</b> DAVID J. PARSLEY	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 1-23-08 and this action is final.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "the opposite direction" lack antecedent basis and therefore it is unclear to what the opposite direction is in that there is no reference point in the claims describing from what the pressing members move.

### ***Claim Rejections - 35 USC § 102***

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,418,447 to Ziolk.

Referring to claim 1, Ziolk discloses a method for phased separation of a sausage strand comprising the steps of supplying a sausage strand - at 58, positioning the sausage strand relative to a separating element – at 34-62, moving at least two pressing members – at 61,62, forming part of the separating element toward each other – see figures 4-5, with a first movement such that the sausage strand is constricted locally – see figures 4-5, moving the pressing members in the opposite direction– see figure 6, where items 61-62 are moved further apart than they were in figure 5 and thus move in the opposite direction with respect to each other, and moving at least two cutting elements - at 56, forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during the moving of the pressing members toward each other - see figures 4-7.

Referring to claim 2, Ziolk discloses the sausage strand is supplied at a constant speed and that along a part of the transport part of the sausage strand the separating element is advanced parallel to the sausage strand - see figure 1.

Referring to claim 3, Ziolk discloses the sausage strand is locally constricted by at least partially displacing sausage dough locally from a casing enclosing sausage dough – see at 58 and column 8 lines 54-68.

Referring to claim 4, Ziolkko discloses the sausage dough is displaced such that casing parts of the sausage strand on opposite sides are brought into contact with each during constricting of the sausage strand in moving the pressing members toward each other - see figures 1-7.

Referring to claim 5, Ziolkko discloses the pressing members are provided with coating contact surfaces - at 61,62, between which the sausage strand is engaged - see figures 4-7.

Referring to claim 6, Ziolkko discloses the pressing members and the cutting members of a separating element are operated by a common drive - see at 45-47, 50, 65,74.

Referring to claim 7, Ziolkko discloses a separating element for phased separation of a sausage strand comprising, at least two pressing members - at 61,62, which pressing members are relatively displaceable between a release position and an operative position in which the pressing members are placed closer together than in the release position - see figures 4-7, and at least two cutting members - at 56, assembled with the pressing members - see figures 1-7, which cutting members are relatively displaceable between a release position and a cutting position - see figures 4-7, in that the paired cutting member and pressing member are situated on individual arms located on opposite sides of the sausage strand to be separated - see figures 1-7.

Referring to claim 8, Ziolkko discloses the separating element also comprises drive means connected to the pressing members and cutting members - see at 45-53, 65 and 74 in figures 1-3.

Referring to claim 9, Ziolkko discloses the pressing members and cutting members are coupled to common drive means - see figures 1-3.

Referring to claim 10, Ziolkowski discloses the contact side of the pressing members of a rigidly coupled pair of pressing members and cutting member is directed toward the contact side of the cutting member coupled thereto – see figures 4-7.

Referring to claim 11, Ziolkowski discloses the separating element is supported by a displaceable holder - at 33 - see figures 1-2.

Referring to claim 12, Ziolkowski discloses the separating elements are placed in line - see figures 1-2.

Referring to claim 13, Ziolkowski discloses the mutual distance between successive separating elements is constant - see figure 1.

Referring to claim 14, Ziolkowski discloses the separating elements are placed on the periphery of a rotatable wheel - see figure 1.

Referring to claim 15, Ziolkowski discloses the separating elements are provided with cam followers - at 53, which co-act with a cam track - at 42, likewise forming part of the assembly - see figures 1-2, which cam followers and cam track are relatively displaceable – see figures 1-2.

### ***Response to Arguments***

4. Applicant's amendment dated 1-23-08 obviates the 35 USC 112 2nd paragraph rejections set forth in the office action dated 11-21-07.

Regarding the prior art rejections of claims 1-6, applicant does not specifically claim what the pressing members move with respect to in the opposite direction. Therefore it is unclear to what the opposite direction is in relation to the components of the claimed invention and

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therefore giving the claims there broadest interpretation it is deemed that the Ziolk reference US 4418447 discloses the claims as seen above in paragraph 3 of this office action where the pressing members – at 61,62, move in an opposite direction with respect to each other or with respect to other pairs of pressing members as seen in figures 1-7.

Regarding the prior art rejections of claims 7-15, Ziolk discloses two cutting member and pressing member pairs - at 34-52 as seen in figures 1-7, with each cutting member/pressing member pair being on their own individual arms - at 34 as seen in figures 1-7.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/  
Primary Examiner, Art Unit 3643